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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
ILLINOIS BELL TELEPHONE COMPANY)
(SBC ILLINOIS) and ORIGIN)
COMMUNICATIONS-MIDWEST LLC,)
) No. 03-0729
JOINT PETITION for Approval of)
interconnection Agreement dated)
November 5, 2003, pursuant to)
47 U.S.C. Section 252)

Chicago, Illinois
January 5, 2004

Met, pursuant to notice, at 10:15 a.m.

BEFORE:

JOHN RILEY
Administrative Law Judge

1 APPEARANCES:

2

3 MR. JAMES A. HUTTENHOWER
4 225 West Randolph Street
5 Suite 25-D
6 Chicago, Illinois 60606
7 appearing for Illinois Bell
8 Telephone Co. (SBC Illinois);

9

10 MR. RON GAVILLET
11 2 North LaSalle Street
12 Suite 1615
13 Chicago, Illinois 60602
14 appearing for
15 Neutral Tandem, Inc.;

16

17 MR. ERIC M. MADIAR and
18 MR. JIM WEGING
19 160 North LaSalle Street
20 Suite C-800
21 Chicago Illinois 60601
22 appearing for staff of the
 Illinois Commerce Commission.

23

24 SULLIVAN REPORTING COMPANY, by
25 Leah Ann Bezin, CSR
26 License No. 084-001104

27

1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 03-0729.

4 This is a joint petition between
5 SBC Illinois and Origin Communications-Midwest,
6 LLC, for approval of an interconnection agreement
7 dated November 5, 2003, pursuant to
8 47 U.S.C. Section 252.

9 And beginning with SBC, would you enter
10 an appearance, please.

11 MR. HUTTENHOWER: James Huttenhower, 225 West
12 Randolph Street, Suite 25-D Chicago, Illinois
13 60606.

14 JUDGE RILEY: Thank you.

15 And for Origin?

16 MR. GAVILLET: Ron Gavillet, G-a-v-i-l-l-e-t,
17 2 North LaSalle, Suite 1615, Chicago, Illinois
18 60602.

19 JUDGE RILEY: And you are counsel for Origin?

20 MR. GAVILLET: Yes, I am.

21 JUDGE RILEY: Okay. Thank you.

22 And for staff?

1 MR. WEGING: James Weging, W-e-g-i-n-g, and
2 Eric Madiar, M-a-d-i-a-r, 160 North LaSalle
3 Street, Suite C-800, Chicago 60601.

4 JUDGE RILEY: Thank you.

5 And again turning to staff, has a
6 verified statement been filed in this matter?

7 MR. WEGING: No, it has not.

8 I'll try to explain the situation as
9 briefly as possible.

10 Origin Communications-Midwest received a
11 telecommunication certificate August 6 of 2003.
12 As a matter of fact, I believe you were the ALJ
13 on that case. I could be wrong on that, but I
14 believe you were.

15 In October of last year, late October, a
16 letter was received by the clerk's office that
17 Origin -- and this is where it gets a little
18 dicey because the clerk's office described it as
19 transferring control from Origin to Neutral
20 Tandem Illinois, LLC.

21 I believe -- and I'll look to
22 Counsel -- I believe that was really a change in

1 name rather than a transfer of control, but I
2 could be wrong on that.

3 So there is no Origin
4 Communications-Midwest, as the certificate would
5 be saying, where it's held now by Neutral Tandem
6 Illinois, LLC, and this -- but then this
7 negotiated agreement came in with the Origin name
8 on it.

9 And I was expecting a motion to change
10 the name on the agreement, but it hasn't been
11 done as yet.

12 And then I guess I'm going to turn it
13 over to counsel for the -- for Or- -- Neutral or
14 Origin, or whoever you want to say you are, and
15 let us know what the situation is.

16 MR. GAVILLET: Sure.

17 JUDGE RILEY: Counsel, would you care to
18 enlighten us?

19 MR. GAVILLET: Yeah. I'm sorry for the
20 confusion.

21 Origin Communications-Midwest, an LLC,
22 did have a transfer of control. Its LLC interest

1 was acquired by a Delaware corporation, Neutral
2 Tandem Inc. Okay.

3 And subsequently, a filing was made with
4 the clerk's office notifying them the name Origin
5 Communications, LLC, was changed to Neutral
6 Tandem Illinois, LLC. And, you know, a filing
7 with the clerk's office, as well as the copies of
8 the Secretary of State notice, were made.

9 And, you know, my intention was
10 essentially to update the record at this hearing
11 with the name change.

12 JUDGE RILEY: Okay.

13 MR. WEGING: Well, I mean, that question is
14 the problem. A name change doesn't change
15 ownership of a company, but a transfer of control
16 does.

17 JUDGE RILEY: It's my understanding that there
18 was an acquisition here.

19 MR. GAVILLET: Well, there was a transfer of
20 control. It wasn't an asset acquisition. And as
21 a transfer of control, they had a competitive
22 tariff on file. There was no prior approval

1 required by the Commission.

2 MR. WEGING: But different owners ended up

3 owning the certificate, essentially.

4 MR. GAVILLET: A transfer of control.

5 MR. WEGING: Yeah.

6 MR. GAVILLET: Yeah. But in a transfer of

7 control for a competitive carrier, and a

8 competitive carrier is defined as a carrier with

9 competitive service and a competitive service

10 tariff on file, there is not a prior approval

11 requirement.

12 So while there were individuals that

13 owned Origin Communications-Midwest, now it's a

14 Delaware corporation, Neutral Tandem, Inc., that

15 owns the stock.

16 JUDGE RILEY: Now, when did this transfer of

17 control take place?

18 MR. GAVILLET: You referenced the letter.

19 MR. WEGING: Right. The letter we had was,

20 what, sent in -- October 27, I believe, is when

21 it was received.

22 JUDGE RILEY: Why did they give them this

1 negotiated agreement -- well, it was filed with
2 the Commission on November 21. When did they
3 actually negotiate the agreement with SBC?

4 MR. GAVILLET: I think -- I think it was prior
5 to that.

6 JUDGE RILEY: I would think that --

7 MR. GAVILLET: Yeah.

8 JUDGE RILEY: In other words, the name was
9 still Origin Communications --

10 MR. GAVILLET: Yes. Exactly.

11 JUDGE RILEY: -- when they did the
12 negotiation --

13 MR. GAVILLET: Yeah, right.

14 JUDGE RILEY: -- and by the time they filed --

15 MR. GAVILLET: Right.

16 MR. WEGING: I mean, there is a small problem
17 we have, is that we have virtually no process for
18 either changes of names or transfers of control.

19 Now, our web site has a form for a
20 change of name, and that's the motor carriers
21 have one. And here we have a deregulated
22 industry, like the trucking industry was, and we

1 don't actually have a form. I mean, it's -- what
2 was sent to us was literally described as a
3 letter, not as a petition or anything --

4 MR. GAVILLET: Right.

5 MR. WEGING: -- and the clerk's office acted
6 on it on the basis that the name was being
7 changed.

8 MR. GAVILLET: And we did contact the clerk's
9 office and asked them what was required. And
10 they require a Secretary of State of Illinois,
11 you know, stamped filing as well as a letter
12 explaining it. And I have actually had name
13 changes processed similarly in the past.

14 But I understand the confusion because
15 we had a pending docket with the different
16 caption. And that's why, you know, it was my
17 intention to update the docket with this
18 information.

19 JUDGE RILEY: Explain to me what the
20 difference is between a --

21 MR. GAVILLET: An asset acquisition and --

22 JUDGE RILEY: -- an asset acquisition and a

1 transfer --

2 MR. GAVILLET: Sure.

3 JUDGE RILEY: -- of control.

4 MR. GAVILLET: Yeah. Transfer of control is a

5 stock transfer. So the corporation itself

6 doesn't change, just who holds the stock is

7 different.

8 JUDGE RILEY: All right.

9 MR. GAVILLET: An asset acquisition actually

10 removes the assets from the corporation.

11 And so this was a stock transfer.

12 MR. WEGING: Yeah.

13 MR. GAVILLET: And as I said, under the

14 Illinois Public Utilities Act, competitive

15 carriers, which is defined as a carrier with a

16 competitive service tariff on file, are exempted

17 from prior approval for stock transfers.

18 MR. WEGING: I guess what is making this odd

19 is that if the name had remained the same and the

20 only thing that happened was the stock transfer,

21 I don't know that that -- we would pick up on

22 that. I mean, utilities we always -- where a

1 change of control is, that's always been heavily
2 regulated. But when it comes to the competitive
3 telecom, we really don't give them that level.

4 MR. GAVILLET: Yeah. The interesting
5 thing -- you're right. The interesting thing is
6 that there is not even a post-transfer notice
7 requirement. But the law firm that did it did
8 notify the Commission at the time.

9 MR. WEGING: Yeah.

10 JUDGE RILEY: So does staff have a position as
11 of right now?

12 MR. WEGING: Well, originally all our position
13 was is that since the clerk's office had already
14 recognized it, the change of name, I'll call it
15 that, was that all this docket needed was a
16 change of name to match up. And if there was a
17 problem with an additional filing, like a
18 transfer of control, we could take care of it at
19 another time.

20 Counsel's indication that there, in
21 fact, is no requirement, I think, is contrary to
22 my understanding. But I'll have to be honest

1 with you, I haven't looked all this stuff up.
2 I'm going on a secondhand reference that other
3 people made to us that a transfer of control
4 actually requires Commission approval.

5 MR. GAVILLET: Yeah, that's -- that's my
6 understanding, as well as we did solicit, you
7 know, input from, you know, very experienced
8 telecommunications counsel on the transaction.
9 And as I said, my experience as well in Illinois
10 is that transfers of control, as opposed to an
11 asset acquisition, there is a distinction in the
12 Act.

13 JUDGE RILEY: So Neutral Tandem just bought
14 the stock, in other words?

15 MR. GAVILLET: Exactly.

16 JUDGE RILEY: Okay.

17 MR. GAVILLET: That's exactly right.

18 MR. WEGING: But they then also then changed
19 the corporate -- dissolved that corporation.

20 MR. GAVILLET: Oh, no. Oh, no. No.

21 Origin -- Origin Communications-Midwest
22 still exists. It changed its name to Neutral

1 Tandem Illinois, LLC. The stock of it was
2 transferred from the original owners to Neutral
3 Tandem, Inc.

4 So that corporate entity which was
5 certified by the Illinois Commerce Commission
6 still exists. It's the same entity.

7 MR. WEGING: Now I'm just totally confused.

8 MR. GAVILLET: Origin Communications-Midwest
9 was the certified entity.

10 MR. WEGING: Right. It is now Neutral Tandem.

11 MR. GAVILLET: Is now Neutral Tandem Illinois,
12 which is a subsidiary of Neutral Tan- -- now a
13 subsidiary of Neutral Tandem --

14 MR. WEGING: You had a change of name and a
15 change of ownership at the same time.

16 MR. GAVILLET: Well, sequential.

17 MR. WEGING: Yeah, well --

18 MR. GAVILLET: First the change of ownership
19 and then the change of name. Right.

20 MR. WEGING: I mean, it -- but wouldn't really
21 be any different than transferring the asset at
22 that point.

1 MR. GAVILLET: Well --

2 MR. WEGING: What you are trying to do is a

3 two-step process, that which you -- and, believe

4 me, I'm the last one to say whether or not an

5 asset transfer would actually have to have

6 approval. What you are actually trying to do is

7 a two-step process to get around something.

8 MR. GAVILLET: Oh, no.

9 MR. WEGING: Is that you dissolved the old

10 corporate name, you changed it to a different

11 name --

12 MR. GAVILLET: Yeah.

13 MR. WEGING: You also changed the ownership of

14 the corporate entity, the person --

15 MR. GAVILLET: Transferred the stock of the

16 entity and changed the name. But that's very

17 different, legally, than dissolving a corporation

18 and/or --

19 MR. WEGING: Well, Origin --

20 MR. GAVILLET: -- transferring some assets --

21 MR. WEGING: -- Communications doesn't exist

22 anymore.

1 MR. GAVILLET: Origin Communications' name has
2 been changed to Neutral Tandem --

3 MR. WEGING: Right --

4 MR. GAVILLET: -- Illinois.

5 MR. WEGING: -- it doesn't exist anymore.

6 Now, ordinary -- if you had no change of
7 ownership and just a change of name, we don't
8 care. But then, at some point, this entity was
9 also changed to a different owner, a different
10 holding company --

11 MR. GAVILLET: Right --

12 MR. WEGING: -- unless you are saying that
13 there used to be -- the old holding company would
14 have been something like Origin --

15 MR. GAVILLET: No. There was no holding
16 company. It was just individuals held the stock
17 of Origin Communications-Midwest, and that stock,
18 by those individuals, was transferred to Neutral
19 Tandem, Inc.

20 MR. WEGING: And then those same individuals
21 own Neutral Tandem?

22 MR. GAVILLET: They were actually -- yeah.

1 They were actually part of the management team.
2 That's exactly right.

3 This is the classic funding of a
4 start-up --

5 MR. WEGING: Okay.

6 MR. GAVILLET: -- where the guys had started
7 the company, and then they brought in, you know,
8 venture investors, and they created a Delaware
9 corporation to hold the -- hold the stock.

10 MR. WEGING: And then they end up holding the
11 stock of the holding company --

12 MR. GAVILLET: Exactly.

13 MR. WEGING: -- rather than --

14 MR. GAVILLET: Exactly.

15 MR. WEGING: -- directly holding it.

16 MR. GAVILLET: Exactly.

17 MR. WEGING: Okay.

18 MR. GAVILLET: That's exactly right.

19 MR. WEGING: Thank you.

20 MR. GAVILLET: That's exactly what happened.

21 And I know with the name change,
22 it -- it probably would be fine if it was just

1 Origin, but then subsequently we changed the name
2 as well.

3 JUDGE RILEY: What is staff going to do now?

4 MR. WEGING: I'm going to have to consult with
5 staff and see what the people in Telecom say
6 about this. I might actually have to look at the
7 statute, which I can do, and --

8 JUDGE RILEY: Okay.

9 MR. WEGING: -- look at the law, since I'm a
10 lawyer.

11 JUDGE RILEY: Well, I am speaking from now,
12 from a standpoint of we have a February 19
13 deadline on this matter.

14 MR. WEGING: Well, our position was, was that
15 all we needed to do was have this thing -- have
16 the change -- the name changed on the case, as we
17 have done on several other dockets where they
18 have come in under older names and had to be
19 changed to the current certificate holder, so
20 that this petition will read Neutral Tandem since
21 that's the actual --

22 JUDGE RILEY: Well, you are talking about the

1 company just filing a --

2 MR. WEGING: A joint amendment to the title

3 change --

4 JUDGE RILEY: Or file a joint motion --

5 MR. WEGING: Right.

6 JUDGE RILEY: -- simply reflecting the name

7 change.

8 MR. WEGING: We had that one with Southwestern

9 Bell, where they filed it as an Inc. and they had

10 been operating as an LLC for a few years.

11 JUDGE RILEY: Now, once that is done, would

12 staff be willing to -- or would staff have a

13 verified statement prepared?

14 MR. WEGING: I would think so.

15 I really -- I'd really have to broach

16 this to the people -- because I thought it was

17 strictly a simple name change, and it may up end

18 up being treated as such --

19 JUDGE RILEY: I don't think it's anything more

20 complicated than that, Counsel, because, like you

21 say, the core entity still exists.

22 MR. GAVILLET: Exactly. Yeah.

1 JUDGE RILEY: That never changed.

2 MR. GAVILLET: Yeah.

3 JUDGE RILEY: All it did was that somebody
4 came in, took over the stock and changed the
5 name.

6 MR. WEGING: The real problem --

7 MR. GAVILLET: The stock was transferred.

8 MR. WEGING: The real problem with an
9 artificial person is that the name is very much
10 part of the corporate identity rather than an
11 actual person --

12 JUDGE RILEY: Right.

13 MR. WEGING: -- you know, and you get into
14 this, is that it isn't like a real person, where
15 I could tell you my name is Joe Schmidt, and the
16 fact I can use that name, even though it's not my
17 legal name, providing I'm not trying to defraud
18 you. But with a corporation, that name actually
19 is -- if you are Ford, Inc., versus, Ford, LLC,
20 versus The, T-h-e, Ford Company, those are
21 actually all three different entities. With a
22 name change -- you have to be very careful about

1 name changes.

2 JUDGE RILEY: Well, all right. I understand
3 that. But --

4 MR. WEGING: And I'm not suggesting anything
5 is wrong here, it's just --

6 JUDGE RILEY: No, no.

7 MR. WEGING: Yeah.

8 JUDGE RILEY: Now, you said that there were
9 filings made with the Secretary of State's --

10 MR. GAVILLET: Yes.

11 JUDGE RILEY: -- office regarding the name
12 change?

13 MR. GAVILLET: Yes. And then those were sent
14 to the clerk's office at the --

15 JUDGE RILEY: And those have been filed with
16 the Illinois Commerce Commission?

17 MR. GAVILLET: Yes. Exactly.

18 MR. WEGING: Well, it's filed as a letter,
19 because this came as a correspondence. And
20 that's gets us into a different issue, which has
21 nothing to do with them because we don't actually
22 have a form for even something as simple as a

1 name change.

2 JUDGE RILEY: Well, was the actual Secretary
3 of State's form filed with the clerk?

4 MR. GAVILLET: Yes. It has to be. Yes.

5 JUDGE RILEY: Okay. You know, I don't think
6 that we need a form simply because we have that.

7 MR. GAVILLET: Yeah. I mean, that's exactly
8 right. This is essentially what was filed with
9 the Secretary of State, you know, the stamped
10 filing with the Secretary of State. You know, I
11 was told that was required.

12 And picking up on what you have said, I
13 would be happy to supply a motion formally
14 requesting that the caption be changed to -- from
15 Origin Communications-Midwest to Neutral Tandem,
16 you know, Illinois, LLC.

17 And in the meantime, I'd be happy to
18 also talk with you about any other background
19 that you have on that.

20 And what I would like is if -- you know,
21 provided you're comfortable, if we could stay on
22 track, you know, for getting this approved with

1 my motion being filed. And then if you do have
2 an issue --

3 MR. WEGING: Yeah. At the minimum, the motion
4 has to be filed, because, I mean, there is no
5 Midwest Origin -- I'm sorry --

6 JUDGE RILEY: Yeah, I understand that. But --

7 MR. GAVILLET: Yeah.

8 JUDGE RILEY: -- again I'm -- we have
9 got -- it seems to me that most of the
10 documentation has been taken care of.

11 MR. GAVILLET: Right.

12 JUDGE RILEY: There isn't any -- strike that.
13 There shouldn't be any confusion --

14 MR. GAVILLET: Well, I was actually --

15 JUDGE RILEY: -- as to the name of the entity
16 once the motion is filed.

17 MR. GAVILLET: Right. In fact, I was prepared
18 to make an oral motion at the hearing, but I'd be
19 happy to make it in writing.

20 MR. WEGING: No, it has to be done in writing
21 because it --

22 MR. GAVILLET: Okay.

1 JUDGE RILEY: Well --

2 MR. WEGING: This is too major. Because we

3 need to have the caption changed as well on the

4 docket itself.

5 JUDGE RILEY: Okay.

6 MR. WEGING: Because otherwise --

7 JUDGE RILEY: That is correct. Yeah. All

8 right.

9 MR. WEGING: -- people looking for your

10 interconnection agreement, and they won't find it

11 because it's listed under --

12 JUDGE RILEY: Right. Yeah. I know. I think

13 it's a better idea to have a written motion --

14 MR. GAVILLET: Right.

15 JUDGE RILEY: -- on file --

16 MR. GAVILLET: No. I'd be happy to.

17 JUDGE RILEY: -- with the --

18 MR. GAVILLET: Right.

19 JUDGE RILEY: -- with the --

20 MR. GAVILLET: With the filing that was

21 made --

22 JUDGE RILEY: Right.

1 MR. GAVILLET: -- to the Illinois Commerce
2 Commission.
3 JUDGE RILEY: Exactly.
4 MR. GAVILLET: Okay.
5 JUDGE RILEY: So that would identify
6 everything.
7 MR. GAVILLET: Okay.
8 JUDGE RILEY: I don't know. Would that -- do
9 you think that would pretty much mollify staff?
10 MR. WEGING: It certainly would have mollified
11 me. But I really now have to check with the
12 other people in the Telecommunications Division,
13 you know, because --
14 JUDGE RILEY: Yeah, they --
15 MR. WEGING: -- they were telling me that if
16 it was a transfer of control, that a petition was
17 needed, but if it was a simple name change, it
18 wasn't.
19 I don't know if they are right or not.
20 They may have been thinking of something else
21 other than telecommunication. I don't know.
22 MR. GAVILLET: It's easy to get confused.

1 MR. WEGING: And I have to admit I have never
2 read the statute itself to tell you one way or
3 another. I should have, perhaps, but --

4 JUDGE RILEY: Okay.

5 Well, give me two seconds. I want to
6 get two documents.

7 I'll be right back.

8 MR. GAVILLET: Okay.

9 MR. WEGING: All right.

10 JUDGE RILEY: Two things. I'll be right back.

11 MR. GAVILLET: Thanks.

12 JUDGE RILEY: We are off the record.

13 (Whereupon, a recess was
14 taken.)

15 JUDGE RILEY: Back on the record.

16 I don't think that there is a
17 inordinately difficult problem to solve here.

18 I don't know what staff's reaction to
19 any of this is going to be. Obviously, you are
20 going to have to find that out.

21 Under any circumstances, I'm a proponent
22 of filing the motion --

1 MR. GAVILLET: Okay.

2 JUDGE RILEY: -- as we discussed --

3 MR. GAVILLET: Yeah.

4 JUDGE RILEY: -- changing the name on the

5 docket.

6 And then once that has been effected,

7 Mr. Weging, do you know how soon you can find out

8 from staff whether or not they are going to have

9 any concerns --

10 MR. WEGING: Well, I can --

11 JUDGE RILEY: -- or if there would be any

12 difficulty with filing a verified statement in

13 this matter?

14 MR. WEGING: I would assume that we could

15 figure that out this week.

16 JUDGE RILEY: Okay.

17 MR. WEGING: You know, it --

18 JUDGE RILEY: Yeah, I would think that --

19 MR. WEGING: I could lay it out before them

20 and they can say whether they -- I mean, had this

21 motion been filed in December, we would have just

22 filed a verified statement over the Christmas

1 break, but --

2 JUDGE RILEY: Right.

3 MR. WEGING: -- you know, like I say, a lot of
4 this had to do with our lack of process on these
5 items.

6 JUDGE RILEY: Well, I'm going to reiterate
7 that there is a February 19 deadline on this
8 matter. And, as matter of fact, that is a
9 Commission meeting date.

10 MR. GAVILLET: Okay.

11 JUDGE RILEY: But quite frankly, I would
12 rather this matter went to the Commission prior
13 to the 19th.

14 MR. GAVILLET: Right.

15 JUDGE RILEY: And they have meeting dates on
16 February 4 and February 10. So if we can wrap
17 this up --

18 MR. GAVILLET: Okay.

19 JUDGE RILEY: -- by the end of the third week
20 of January --

21 MR. WEGING: Well, can we set a status for
22 next week? And if staff has no problems, I can

1 have the verified statement. And if they
2 don't -- if they do have a problem, I could at
3 least advise everyone that we have a problem.
4 And it would still give us a little bit of time
5 to fight over it or work it out or whatever.

6 JUDGE RILEY: When do you want to meet next
7 week?

8 MR. HUTTENHOWER: I have to wear suits on
9 Tuesday and Wednesday already, so. . .

10 MR. WEGING: I have just a hearing at 10:00
11 o'clock on Tuesday, but actually --

12 JUDGE RILEY: No, I've got a matter up at
13 11:00.

14 MR. HUTTENHOWER: How about 10:30 on Wednesday
15 or something?

16 MR. WEGING: 10:30 on Wednesday?

17 JUDGE RILEY: As a matter of fact, that should
18 work because the matter I have there now, I have
19 been told, is in the process of settling.

20 Although I would feel better doing this
21 on Tuesday the 13th.

22 MR. GAVILLET: 10:00 a.m.?

1 MR. HUTTENHOWER: I have something at 10:00
2 also.

3 MR. WEGING: I mean, the afternoon of Tuesday?

4 JUDGE RILEY: No.

5 MR. WEGING: I know.

6 MR. GAVILLET: 9:30?

7 MR. WEGING: Tuesday hearings we have this
8 problem with people --

9 JUDGE RILEY: Why don't we make it the 14th at
10 11:00?

11 MR. HUTTENHOWER: That's exactly when my
12 hearing is.

13 JUDGE RILEY: Oh. All right.

14 You were saying 9:30. When?

15 MR. HUTTENHOWER: Either like 9:30 on the
16 Tuesday or, you know, 10:00 or 10:30 on the
17 Wednesday.

18 JUDGE RILEY: Because, I mean, as far as a
19 status session is concerned, how long, you know,
20 could it possibly last?

21 MR. HUTTENHOWER: Yeah.

22 JUDGE RILEY: I mean --

1 MR. GAVILLET: We might be able to cancel it
2 too if you and I talk in the meantime.

3 MR. HUTTENHOWER: Yeah.

4 MR. WEGING: Well, you know, but if we are
5 going, then it's just, you know, presenting a
6 verified statement and --

7 MR. HUTTENHOWER: It will last as long as that
8 first one, with the witness.

9 MR. WEGING: Which is actually --

10 JUDGE RILEY: Yeah. Exactly. Yeah, once the
11 matter has been ironed out, it's just a matter of
12 putting it on the record.

13 MR. WEGING: Are you not free at 10:00 o'clock
14 on Wednesday?

15 JUDGE RILEY: No. I've got a matter up. As a
16 matter of fact, it's a complaint.

17 Now, I was told by counsel that the
18 matter is going to settle. But --

19 MR. WEGING: But you never know about that.

20 JUDGE RILEY: -- this thing has been going
21 back and forth so much, I really can't say for
22 sure.

1 Why don't -- 9:30 on Tuesday the 13th?

2 MR. WEGING: Okay. I would prefer 9:30 on

3 Wednesday.

4 If you can't do it, then 9:30 on

5 Tuesday --

6 JUDGE RILEY: 9:30 on Wednesday I can

7 accommodate. That's not a problem.

8 MR. WEGING: Then I would prefer the 9:30 on

9 Wednesday.

10 JUDGE RILEY: All right. Let's do it 9:30 on

11 Wednesday.

12 MR. WEGING: Okay.

13 Like I say, it's either going to be over

14 with or it's going to be just a quick status as

15 to where everybody is.

16 MR. GAVILLET: And can I follow up with you in

17 a day or two?

18 MR. WEGING: Sure.

19 MR. GAVILLET: What's your direct number?

20 MR. WEGING: Somewhere I have my business

21 cards.

22 MR. GAVILLET: Okay. Great.

1 MR. WEGING: Yes. Thank you.

2 MR. GAVILLET: Thanks.

3 JUDGE RILEY: Okay. All right.

4 MR. GAVILLET: Okay. All right.

5 JUDGE RILEY: Then it's agreed we will

6 reconvene for a status on January 14, that is

7 Wednesday, at 9:30 a.m., And we will determine,

8 literally, what the status of this matter is --

9 MR. GAVILLET: Okay.

10 JUDGE RILEY: -- at that time.

11 MR. GAVILLET: Wonderful.

12 JUDGE RILEY: Thank you very much.

13 MR. GAVILLET: Thank you.

14 MR. WEGING: Thank you.

15 MR. GAVILLET: Thanks.

16 Sorry for the confusion.

17 (Whereupon, the above-entitled matter

18 was continued to January

19 14, A.D., 2004, at 9:30

20 o'clock a.m.)

21

22